

Summary of IRS 20-Factor Test

The IRS traditionally has maintained that it doesn't matter if a written agreement takes a position with regard to any factors or state that certain factors do not apply, if the *facts* indicate otherwise. A contract designation that the parties are entering into an independent contracting agreement and the service provider is an independent contractor, in and of itself, is never sufficient evidence for determining worker status. So, for tax collection purposes, the IRS appears to have a strong incentive in finding employee status even in instances when the parties enter into a written contract that says otherwise.

Terms: "*Worker*" as used in this chart refers to the erstwhile independent contractor (the service provider); "*Company*" refers to the service recipient, i.e., the client or business hiring or purchasing the services rendered by the independent contractor. "*He*" refers to both genders.

Recommendation: If one or more factors under the "Employee Status" heading is true, consider either restructuring your arrangement with the worker or converting the relationship to employer-employee status.

Factor	Indicates Employee Status	Indicates Independent Contractor Status
Instructions	Worker is subject to control of and must comply with company's significant instructions	Worker determines when, where, and how the work is performed
Training	Worker required to undergo on-the-job training	Worker is already highly skilled and receives no training from company
Integration	Worker's services are an integral part of the overall business; worker's services parallels work done by regular full-time employees	Worker's services are not integral to the success or continuation of the business; worker performs services separate and distinct from work done by regular full-time employees
Services Rendered	Worker must render the services personally	Worker need not render services personally and has helpers
Hiring/Supervision	Company hires, supervises, and pays workers	Worker hires, supervises, and pays helpers under a contract requiring him to provide materials and labor
Employment Relationship	Continuing relationship	Relationship exists only until specific

	between worker and company	project is completed
Work Hours	Company sets work hours	Worker sets his own work hours
Full-time effort	Worker must devote full-time effort to company	Worker determines when and for whom he chooses to work
Location	Work is performed on company premises	Work is performed elsewhere
Order/Sequence	Company sets order or sequence of work performed	Worker follows his own pattern or schedule of work
Reports	Worker must submit regular oral or written reports	Regular reports not required
Payment Method	Worker is paid hourly, weekly, or monthly	Worker is paid by the job or by straight commission
Expense Reimbursement	Company reimburses worker for business or traveling expenses	Worker pays his own expenses
Tools and Materials	Company provides worker's tools and materials	Worker furnishes his own tools and materials
Significant Investment	Worker does not invest in facilities and/or equipment used to provide services	Worker makes significant investment in facilities and/or equipment he uses in performing services
Profit or Loss	Worker cannot make a profit or loss	Worker can realize a profit or loss under the contract
Employed by More than One Firm	Worker provides services to one company	Worker provides services to multiple unrelated companies at the same time
Service Availability	Worker does not regularly make services available to the general public	Worker regularly makes services available to the general public
Firing	The right to discharge is an indicator of an employer-employee relationship	Worker may not be fired if work is produced according to contract specifications
Quitting	Each party has the right to terminate the relationship without incurring liability	Worker may terminate the relationship only upon completion of contract or breach of contract by other party